

**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 04-12448GAO

GMAC MORTGAGE CORPORATION,
Plaintiff

v.

JEFFREY L. BAYKO, SR., LISA J. BAYKO,
HELEN E. BAYKO, MICHAEL J. BAYKO,
BANKNORTH GROUP, HANS R. HAILEY,
CHARLES D. ROTONDI, COMMONWEALTH
OF MASSACHUSETTS DEPARTMENT OF
REVENUE, THE UNITED STATES OF
AMERICA, GARY EVANS, CHRISTINE ANN
FARO, AND JOHN AQUINO,
Defendants

**MICHAEL J. BAYKO AND HELEN E. BAYKO'S
OPPOSITION TO BANKNORTH, N.A.'S MOTION FOR SUMMARY JUDGMENT
(Docket #5)**

Michael and Helen Bayko admit that BankNorth, N.A.'s claim is senior to their claim.

They object to BankNorth's Motion for Summary Judgment only to the extent that it misstates the facts regarding their mortgages. (Information from two separate mortgages is commingled.

This confusion appears to originate with the Complaint.)

In a listing of junior lienholders, BankNorth states that Michael J. Bayko and Helen E. Bayko are the holders of a mortgage dated July 19, 2002 and recorded August 12, 2002. That information is correct. However, the July 19, 2002 mortgage secures payment of a \$46,360.00 note plus interest and attorneys' fees and costs. It was recorded at the Southern Essex County Registry of

Deeds on August 12, 2002 and appears Book 19056, Page 153.

In addition, Michael J. Bayko and Helen E. Bayko hold an additional mortgage securing a Note dated May 9, 2003 in the amount of \$6,300.00 (plus interest, attorneys' fees and costs). This mortgage was recorded July 8, 2003 at the Southern Essex Registry of Deeds in Book 21193 at Page 386.

Respectfully submitted,
Michael J. Bayko and Helen E. Bayko
by their attorney,

Date: December 8, 2004

/s/ Timothy D. Sullivan

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CERTIFICATE OF SERVICE

I, Timothy D. Sullivan, Esq. do hereby certify that on this 8th day of December 2004, I served a copy of the enclosed Helen and Michael Bayko's Opposition to BankNorth, N.A.'s Motion for Summary Judgement, by mailing a copy of the same, first class mail, postage prepaid to: Jeffrey Bayko, Sr., c/o Attorney Gary Evans, Evans, Evans and Bingham, 58 Main Street, Topsfield, MA 01983; Attorney Christine Ann Faro, 79 State Street, Newburyport, MA 01950, individually and as attorney for Lisa Bayko; Attorney Gary Evans, Evans, Evans and Bingham, 58 Main Street, Topsfield, MA 01983, individually; Attorney David M. Rosen, Harmon Law Offices, P.C., P.O. Box 610389, Newton Highlands, MA 02461-0389, attorney for GMAC Mortgage Corporation; Attorney Michele A. Rooke, Doherty, Wallace, Pillsbury and Murphy, P.C., One Monarch Place, Suite 1900, Springfield, MA 011449-1900 attorney for Banknorth Group; Attorney Hans Hailey, 225 Friend Street, Boston, MA 02114; Attorney Charles D. Rotondi, 79 State Street, Newburyport, MA 01950; Commonwealth of Massachusetts Department of Revenue, Collections Bureau, P.O. Box 7021, Boston, MA 02204; Assistant US Attorney Barbara Healy Smith, U.S. Department of Justice, U.S. Courthouse, One Courthouse Way, Suite 9200, Boston, MA 02110; and Attorney John Aquino, Anderson & Aquino, LLP, 260 Franklin Street, Boston, MA 02110.

/s/ Timothy D. Sullivan

Timothy D. Sullivan, Esq.